

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA, 15-CR-393 (MKB)
4 Plaintiff, United States Courthouse
5 -against- April 26, 2018
6 FAREED MUMUNI, 2:00 p.m.
7 Defendant.

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9 TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
10 BEFORE THE HONORABLE MARGO K. BRODIE
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES

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25 Proceedings recorded by mechanical stenography. Transcript
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LINDA D. DANELCZYK, RPR, CSR
Official Court Reporter

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1 (In open court.)

2 THE COURTROOM DEPUTY: All rise.

3 THE COURT: Please be seated.

4 THE COURTROOM DEPUTY: Criminal cause for
5 sentencing, *USA versus Mumuni*, Docket Number 15-CR-393.

6 Counsel, please state your appearances for the
7 record, starting with the government.

8 MR. SOLOMON: Good afternoon, Your Honor. Alex
9 Solomon, Doug Pravda, and Ian Richardson for the government.
10 Also present in the courtroom are the two victims, Jim Wyka
11 and also Kevin Coughlin.

12 THE COURT: Okay. Thank you, Counsel.

13 MR. RICCO: Yes. Good afternoon, Your Honor.
14 Anthony Ricco for Fareed Mumuni. Present at counsel table is
15 attorney Kenneth Montgomery, attorney Steven Legon, and
16 paralegal Leonard Rollock. And present to Your Honor's right
17 are the parents of Fareed Mumuni, his first cousin that was
18 described in the sentencing submission, along with his
19 extended family members seated in rows three and four.

20 THE COURT: Thank you, counsel. Please be seated,
21 everyone.

22 In preparation for sentencing today, I've looked at
23 a number of documents. I'm going to review them with the
24 parties to make sure I didn't miss anything.

25 I have a presentence report that was prepared on

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1 June 29th, 2017 and filed the same day. An addendum to that
2 presentence report that was filed on January 30th, 2018. A
3 second addendum to the presentence report that was filed on
4 February 1st, 2018. The Probation Department's sentencing
5 recommendation, which I'll share with the parties in a minute.
6 And that was filed on June 29th, 2017.

7 I also have from the defendant his objections to the
8 PSR that was filed on January 27th, 2018. A sentencing letter
9 from him with several attachments filed on March 29th, 2018.
10 An April 25th, 2018 supplemental sentencing memo, also from
11 the defendant.

12 From the government, I have a January 12th, 2018
13 sentencing memorandum. A January 29th, 2018 response to the
14 defendant's objections to the PSR. And an April 19th, 2018
15 supplemental letter, also responding to the defendant's
16 earlier letter.

17 Am I missing anything, counsel?

18 MR. SOLOMON: There's also the government's letter
19 to probation dated October 20th, 2017 noting certain
20 objections to the PSR.

21 THE COURT: It was sent to probation. It wasn't
22 sent to the Court. But I have not reviewed that, but I have
23 reviewed the addendum, which addresses that objection.

24 MR. SOLOMON: Thank you.

25 MR. RICCO: Yes. That's correct, Your Honor. Thank

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1 you.

2 THE COURT: Okay. And you can may remain seated,
3 Mr. Ricco. You don't need to stand when you address the
4 Court.

5 Have you and your client read and discussed the
6 presentence report and the addendum?

7 MR. RICCO: Yes, Your Honor, we have.

8 THE COURT: Okay. According to the presentence
9 report, the guideline calculation is a total offense level of
10 43. No criminal history points. Criminal History Category of
11 VI pursuant to 3A1.4(b). Guideline imprisonment term is life.
12 Restricted guideline range is 1,200 months.

13 Mr. Ricco, you submitted certain objections to the
14 PSR to the Court, and I'm going to turn to those now and
15 address them. This is your letter dated January 27th, 2018,
16 Document Number 138.

17 Starting with your first objection, you object to
18 certain language in paragraph 14 of the PSR. I am striking a
19 portion of that paragraph. So that it currently reads:

20 The investigation revealed that Fareed Mumuni had
21 assisted Saleh in his efforts to the carry out a terrorist
22 attack on behalf of ISIL, and then it goes on to specify
23 certain conduct.

24 I am striking from "Fareed Mumuni" all the way
25 through "specifically." So that the sentence should now read:

1 The investigation revealed that members of law
2 enforcement, and it continues.

3 Later on in the paragraph, it also reads:

4 In addition, on May 12th, 2015,
5 judicially-authorized electronic surveillance revealed that
6 Saleh contacted Mumuni to indicate that he had money and
7 wanted to meet that day, stating that he had money that talks,
8 possibly referring to funding for an alleged transaction.

9 I'm deleting "possibly referring to funding for an
10 alleged transaction."

11 With regard to your second objection, paragraph 15,
12 I'm deleting the last sentence. "According to the
13 investigative agent, the reference to motivating suggests
14 Mumuni may have been involved in Saleh's planning for a
15 terrorist attack."

16 With regard to your third objection to paragraph 21
17 of the PSR, you dispute the government's statement, which I'm
18 not going to change, but what I am going to do is to add your
19 disagreement to the PSR.

20 So that the last sentence stated under objections
21 and comments on page 3 of your objection, which reads:
22 "Fareed Mumuni asserts that upon lunging at the first agent,
23 he was taken down and immediately subdued by the agents. He
24 denies any allegation that he reached for an agent's firearm
25 and attempted to pull the trigger."

1 This is a disagreement with the facts as stated by
2 the government. I'm simply having it added to the PSR.

3 As to objection number four, which is to
4 paragraph 24, I'm deleting the last two words, "to denote."
5 That's it.

6 With regard to paragraph 29, objection five, I'm
7 adding again the language: Since you disagree with the
8 government's statement as to the facts. So the language
9 after -- that starts with "Fareed Mumuni acknowledges that he
10 lunged at a law enforcement officer with a single kitchen
11 knife, however, he denies repeatedly stabbing anyone." That's
12 added.

13 The beginning of the next sentence is not added.
14 Again, as set forth in our objection to paragraph 21 that's
15 deleted. The rest of that paragraph is added.

16 You state in your objection at the top of page 4,
17 Mr. Ricco, that you don't believe that the facts and
18 circumstances in this case support the use of a first-degree
19 murder guideline. You've given me no reason to consider that
20 sentence, so I'm disregarding it. You've not made any
21 arguments in support of that.

22 As to objection six, paragraph 33. Again, you
23 disagree with the facts as stated. This is the government's
24 account of what happened. I've already included your client's
25 account. I don't believe there's anything for me to do with

1 regard to that particular paragraph.

2 As to your seventh objection to paragraph 34, I'm
3 deleting the phrase, "while Mumuni was directly involved in
4 the planning to carry out terrorist attacks." That specific
5 phrase is deleted.

6 I believe I've addressed all of your objections.

7 MR. RICCO: Yes, you have, Your Honor. Thank you.

8 THE COURT: Okay.

9 In addition, the PSR incorrectly lists the
10 supervised release term for Counts One, Two and Three. So it
11 must be amended as to paragraph 93 to say that the statutory
12 provision should reflect, as to Counts One, Two and Five, that
13 pursuant to the 18 U.S.C. Section 2332b(g)(5), the Court shall
14 impose any term of years of supervised release up to life.

15 As to Counts Three and Six, the Court may impose a
16 term of supervised release of not more than three years. That
17 error must be corrected.

18 As to paragraph 95, the guideline provision, that,
19 too, has to be amended to reflect that as to Counts One, Two
20 and Five, the guideline requirement for a term of supervised
21 release is two years to life.

22 And as to Counts Three and Six, since the offense is
23 a Class C felony, the guideline range for a term of supervised
24 release is one to three years.

25 Consistent with the calculation of the guideline in

1 the PSR, I find that the total offense level is 43. No
2 criminal history points. Criminal History Category VI.
3 Guideline imprisonment term of life. Restricted guideline
4 range of 1,200 months. Supervised release term up to life on
5 Counts One, Two and Five. And One to Three years on Counts
6 Three and Six. The fine range is 25,000 to \$250,000, and it's
7 a \$500 special assessment.

8 Are there any objections for the record?

9 MR. RICCO: None, other than previously stated, Your
10 Honor.

11 MR. SOLOMON: Not from the government, Your Honor.

12 THE COURT: Turning to the 3553(a) factors, I have
13 considered them. In addition, I've considered the guidelines'
14 policy statements. I've considered, among other things, the
15 nature and circumstances of the offense, the history and
16 characteristics of the Mr. Mumuni, the need to avoid
17 unwarranted sentencing disparities among similarly situated
18 defendants, the need to protect the public from further crimes
19 by Mr. Mumuni, the need to afford adequate deterrence. I've
20 considered it all. I've read all of the submissions. I've
21 watched the video of Mr. Mumuni's postarrest statement.

22 Mr. Ricco, do you wish to be heard further on your
23 application for a variance?

24 MR. RICCO: Yes, Your Honor.

25 THE COURT: Okay. Please proceed.

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1 MR. RICCO: Okay. First and foremost, I noted Your
2 Honor has read and reviewed a breadth of materials here, and I
3 don't want to go over it.

4 On one hand, Your Honor, I sort of in a way
5 apologize to the Court for such a lengthy sentencing
6 submission. The goal is always to try to communicate in an
7 effective way and sometimes we get lost in length.

8 The difficulty here, Your Honor, was the
9 circumstances that the case has and the guideline sentence
10 involved. It really required a very serious and in-depth look
11 at who the offender was.

12 I know that the Court relies upon representations of
13 counsel at sentencing and sort of looks forward to helpful
14 information that counsel can discover with respect to the
15 offender and circumstances of the offense.

16 As set forth in the letter, the government has asked
17 for the imposition of essentially a life sentence on the
18 defendant here. My view, Judge, is I don't see anything about
19 the circumstances of the offense, the need to protect the
20 public, anything about this defendant's background and history
21 that would even remotely suggest the imposition of such a
22 horrific sentence.

23 To say this one thing, but to then go out and meet
24 with the family and spend time listening to them about the
25 history and background, who the defendant was, their struggles

1 in raising him, who they hoped he would be, who he is, in
2 fact, along with a very serious look at the circumstance of
3 the offense, both offenses here are very serious offenses, not
4 taken lightly by us at all, nor the defendant, nor his family.

5 So the short of this is that the defendant is young.
6 He's smart. He's a hard worker. He's loved by his family,
7 and he loves them. His parents don't have one job, they have
8 two jobs. They had Fareed working at a young age. He was
9 working the day before he got arrested, working in a senior
10 citizen home. Attending college, doing well. He has a sister
11 who serves in the armed services of our nation as a officer, a
12 non-commissioned officer, in the United States Navy. His
13 first cousin is a student in law school. No one in the family
14 anywhere at any time has ever been arrested for a crime. This
15 is the first offense that Fareed Mumuni has committed, and boy
16 is it serious.

17 I've had the opportunity to appear in courts in our
18 country over the last 30 years. I've been involved in cases
19 of this nature. I've been involved in cases involving
20 multiple murder of individuals. And very rare do you see an
21 imposition of a life sentence on a person as young as the
22 offender before the Court, in the absence of physical injury
23 and damage to property or people.

24 And so it lends itself to how do we arrive at that.
25 We arrive there when we have lost sight of what sentencing is

1 supposed to do in the first place, and sentencing is driven by
2 guidelines. And when I say "We," I don't mean the defense
3 bar, I mean when our prosecutions are driven by the
4 guidelines.

5 It's not a criticism of the government. It's a fact
6 that I cannot think of a defendant from a family such as this,
7 so hard working and so committed, an offender without a
8 criminal record, where we come to the conclusion that there's
9 not a single factor about his life, about his family, about
10 the circumstances of the offense here that will warrant a
11 sentence outside the guidelines. I find that very difficult
12 to comprehend, given my experience practicing before this
13 Court and courts all over our nation and in cases far more
14 serious than this.

15 When I say "far more serious," this case is very
16 serious. But I mean when we have an offender with a track
17 record of violence and history, and where you have the
18 horrific loss of life or serious physical injury to people.

19 The one thing that I also wanted to get out of way,
20 Judge, is this. Your Honor gave us an opportunity to review
21 the affidavit of the officers that were submitted in this
22 case; and we did. And Your Honor gave us the opportunity, if
23 we wanted, to hire an expert to review that affidavit. It was
24 difficult to do. It was very difficult to get people in law
25 enforcement to comment on what other law enforcement officers

1 are doing where they perceive their lives to be in jeopardy.
2 But we did have an opportunity to sit down with individuals in
3 law enforcement and review it. And based upon the review, the
4 conclusion that there was nothing about that affidavit that
5 was outside the common sense of experience of a juror and
6 certainly not a judge.

7 And I want to say this. I am not here today to
8 criticize the law enforcement officers in this case at all.
9 Because I don't have any criticism of them. They were doing
10 their job. They were there executing a search warrant. And
11 if we take the facts as was reported by the officers, they
12 come in and they see a six-foot-three, 250-pound guy coming
13 down the stairs ultimately with a knife in their hand coming
14 towards them.

15 Whoever these law enforcement officers were, they
16 did what we have been screaming across this nation to do.
17 They subdued Fareed Mumuni. They disarmed him. They were not
18 injured. And he had not a single scratch. They were able to
19 take him into custody without any injury to him whatsoever.
20 He wasn't kicked. He wasn't beaten. Nor was he shot dead.
21 And for that, Fareed Mumuni's family has absolutely no
22 criticism of their actions at all. Nor does Fareed. He talks
23 about it in his letter.

24 We often think, well, what was Fareed thinking?
25 What did he think was going to happen as he ran towards law

1 enforcement officers fully armed. Two with long firearms;
2 others with handguns. With a knife in his hand, a kitchen
3 knife. Did he think that he was going to be able to somehow
4 kill these officers, or was in his mind he wanted to be shot
5 dead?

6 When we look at the tapes in this case, and we
7 listen to his statements that's made to law enforcement before
8 he has an opportunity to get a lawyer, but his statements made
9 to the law enforcement officers within an hour of his arrest
10 where he is in their custody, he is very calm, and he's
11 talking about why he's doing what he was doing. And what he
12 says to them is that he wanted to die. And if it wasn't for
13 the officers involved in this case, he probably would have.

14 So there's no criticism of them at all. They were
15 trained professionals and they did the job that we expect
16 trained professionals to do, in this situation and in all of
17 these situations where the officers do not do that.

18 So I wanted to put that out there because it is a
19 part of our sentencing submission and is something that we
20 believe in, and it's the reason why we didn't submit an
21 affidavit, although the Court gave us an opportunity to do so.

22 So how does a young man, on June 17th, where does he
23 get the idea from that he should die and die for what? Where
24 did that come from? Did it come from his parents? Did it
25 come from his family? Did it come from the education that he

1 was getting at Staten Island College? No.

2 It didn't come in the mosque that he attends.

3 Judge, it didn't come from his neighbors that wrote to you

4 about the young man that they know. And his neighbors

5 represent everybody. Retired people from the military.

6 Black. White. All of his neighbors all said the same thing

7 about Fareed Mumuni. They basically summed it up as saying

8 he's a nice kid. That he helps out. That he's respectful to

9 his parents and everyone else.

10 So where in the world did he get this idea from that

11 he wanted to die on June 17th? It was put in his head by a

12 sophisticated operation of people in this world who go under

13 the name of ISIS and under the pretext of Islam has

14 infiltrated our country and has corrupted young people just

15 like Fareed Mumuni. They spend millions of dollars to find a

16 way to get kids like Fareed Mumuni to want to give up their

17 lives.

18 What we know from this case, and we've done the

19 work, is found that many of the defendants who are charged

20 with these offenses are young people just like Fareed Mumuni.

21 They have no criminal record. They attend college. They have

22 pretty good relationships with their parents. That people

23 generally say good things about them.

24 Everything that I know about this case, Judge, is

25 that the idea to want to go join ISIS and to participate in

1 this came from outside of our country, through the internet
2 and through operatives here in this country. Fareed Mumuni is
3 not a leader. He didn't recruit a single person. He was
4 recruited. And he wanted to go and join ISIS and he wanted to
5 go over and defend the Islamic state, so he said. And he was
6 encouraged to do so by a defendant that Your Honor has
7 sentenced, and that individual tried to influence him in a lot
8 of ways.

9 In our city you can buy a gun anywhere. If we left
10 here at 2:40, we could be back here at 3:40 with a whole
11 handful of them, and we don't have to go too far from the
12 courthouse to get them.

13 Fareed Mumuni decides he's going to attack law
14 enforcement with a kitchen knife. It's as foolish as wanting
15 to lose one's life over an idea that you really don't know
16 about.

17 When we had asked a local imam to look at the video,
18 to study the video, and ask us is there any legitimate -- the
19 video of the postarrest statement -- is there any legitimate
20 Islamic principle being discussed by the defendant, the answer
21 was no. It's a misguided understanding of what Islam is
22 perpetrated by people who are manipulating United States
23 citizens.

24 I think that the agents in this case, when they went
25 into the house on Staten Island, I think they recognized that.

1 I think that they wanted to protect themselves but they were
2 not interested in hurting Fareed Mumuni, because they didn't.
3 And I think when they looked at him, they had been listening
4 to the wires and they knew about the case. And I think when
5 they looked at Fareed Mumuni, they didn't see a person they
6 needed to put down. They knew where they were going. They
7 knew who he was. They took him into custody and they brought
8 him here, just the person that the government wants to send to
9 prison for the rest of his life.

10 I met him here in this courthouse. The first thing
11 he said to me was, Mr. Ricco, am I going to get raped? That
12 was the first thing that he said to me. His understanding of
13 being in jail and his fear of being in jail was very high.

14 He's been in prison now almost -- he's been in
15 detention now almost three years. It will be three years in
16 about six weeks. He looks much better than he did the first
17 day I met him, which I'm happy about. He has spent his time
18 doing what he did before he was arrested, pursuing education
19 and helping others learn to read and write so that they can
20 reenter into society more productive.

21 Judge, Fareed Mumuni has a life worth giving an
22 opportunity to. The agents knew it when they saw him. They
23 brought him here for the court to ultimately decide what's the
24 appropriate punishment to impose.

25 We did not recommend a sentence to impose. We had

1 confidence that the Court would look at the factors and impose
2 a sentence that is sufficient but not greater than necessary
3 to reach the many objectives that Congress has set forth in
4 3553(a). Our hope was that no judge would be bound by the
5 guidelines in a case such as this, with an offender such as
6 Fareed, where you have the absence of injury.

7 The charge of attempted murder is a very serious
8 charge. And the charge of attempted murder against a law
9 enforcement officer is an even more serious charge, in my
10 mind. The time is the same whether you try with a knife or
11 try with a bulldozer or a gun or an AR15. So how does the
12 Court decide, if the sentence is closer to 20 or zero, or
13 wherever in between? I think all of those factors in 3553(a)
14 helps the court.

15 We would ask that the Court sentence the defendant
16 at variance with the guidelines. Fareed Mumuni is a young
17 person who is capable of redemption. And everyone who is not
18 tied to the guidelines or policy considerations is aware of
19 that. He was a follower here and it cost him. He did
20 something that all parents fear their children would not do,
21 get involved with the wrong people.

22 Thank God the agents were not hurt. Thank God
23 Fareed Mumuni wasn't hurt.

24 He now has to pay a price for what he allowed
25 himself to believe in while he was a college student, and boy

1 am I glad I don't have to, but he has to. He will grow,
2 Judge, and learn. You can be sure of that. He has learned
3 over the last 36 months.

4 We ask that the Court impose a sentence that doesn't
5 take away from him hope, and doesn't take away from him the
6 hope and expectations of his family for a young man that they
7 had so much hope and faith in.

8 I could go on, but I will not. I'm not, Judge,
9 going to have a debate as to whether or not in two or three
10 seconds Fareed Mumuni's hand went towards an officer's trigger
11 or not. I think I'm okay with the fact that it did not happen
12 and that he was not injured and officers were not injured.

13 With respect to the other issues, Your Honor,
14 related to the government's persistence that he was involved
15 in a domestic attack through the use of a pressure bomb, I
16 have never seen any evidence of that, I have, though not
17 mentioned in our sentencing submission, I had the opportunity.
18 Ms. Colson provided me with a copy of her client's postarrest
19 statement that Your Honor has seen and evaluated in connection
20 with the sentencing of Mr. Saleh. And there is not one word
21 in that 546 pages where Munther Omar Saleh says that Fareed
22 Mumuni agreed to participate with him in a pressure cooker
23 bomb attack. In fact, what he says at at least a dozen pages
24 is that he did not agree to that.

25 Somehow the government wants that to be the truth of

1 its case in the absence of evidence. And they want the
2 defendant sentenced as if he did it, even when there is no
3 evidence, that he did not.

4 I would ask the Court to take it all into
5 consideration. His assertion that he did not. The
6 government's claim that he did. And the various statements of
7 Fareed Mumuni where he denied it, and the postarrest extensive
8 statements of Mr. Saleh where he admitted his own criminal
9 conduct, but specifically said that Fareed Mumuni did not
10 agree with him in it.

11 It is uncontroverted that Saleh tried to get him
12 interested in that. That's not disputed. What is disputed is
13 whether or not the Defendant Fareed Mumuni ever agreed to it.
14 Our position is that he did not.

15 To the extent that the Court finds that Mumuni did
16 participate in the conspiracy he did, the facts that support
17 his plea, legally, the facts that would support his plea, and
18 I would ask that the Court sentence him according to that
19 level of his role during, and those acts that were reasonably
20 foreseeable to him balanced with who he is as a young person,
21 and to keep the issue of hope viable in his life and the life
22 of his family. Thank you very much, Your Honor.

23 THE COURT: Thank you, Mr. Ricco.

24 I am going to share with you the Probation
25 Department's sentencing recommendation and give you a few

1 minutes to review it with your client. (Proffering.)

2 (Pause.)

3 THE COURT: Have you had an opportunity to review
4 that with your client?

5 MR. RICCO: Yes, Your Honor, we have.

6 THE COURT: Okay.

7 Mr. Mumuni, you have a right to make a statement to
8 the Court, if you want. It is up to you. And I have read
9 your letter you submitted.

10 THE DEFENDANT: Thank you, Your Honor.

11 First and foremost, I would like to apologize to my
12 family over there, my mother. I'm sorry for putting you
13 through all of this. My whole family sitting there. I
14 understand how much what I've done has affected you all.

15 And I would like to apologize to the Court and to
16 the special agents who came to my house that day.

17 Three years is a long time, and every day thinking
18 about what's happened and feel like I'm finally waking up from
19 a trance. And all I can say is I'm sorry. I'm changing. I'm
20 trying to change. I'm trying to become a better person. I
21 want to go out there and help people to understand that this
22 isn't the way to live. And I want to apologize again for
23 everything that I've done. And I just want to grow and become
24 a better person. I want to thank the Court, the Judge, for
25 taking the time to hear what I have to say.

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1 I got arrested when I was 21 years old. I followed
2 some people thinking they were my friends and they were giving
3 me the right answers. But believe it or not, since being
4 incarcerated, which is forcing me to be around a lot of
5 different people, I got to understand and see different points
6 of views, different people, different insights. I feel like I
7 really have grown and I can't explain how sorry I am for what
8 I've done. I understand saying sorry won't take back what
9 happened, all I can say is I'm sorry, and I apologize. Thank
10 you.

11 THE COURT: Thank you, Mr. Mumuni.

12 Does the government want to call the victims in this
13 case?

14 MR. SOLOMON: I believe Special Agent Coughlin would
15 like to address the Court.

16 THE COURT: Okay.

17 Please come forward.

18 Please state your name for the record.

19 SPECIAL AGENT COUGHLIN: Yes, Your Honor.

20 Kevin Coughlin, C-O-U-G-H-L-I-N.

21 THE COURT: Please proceed.

22 SPECIAL AGENT COUGHLIN: Thank you, Your Honor.

23 Your Honor, as I said, my name is Kevin Coughlin,
24 I'm a special agent with the FBI. I've been at the FBI here
25 in New York for ten years, on the FBI's NYPD violent crime

1 task force, and I've been in the FBI SWAT team for about the
2 past six years.

3 THE COURT: I'll just ask you to slow down so that
4 the court reporter can keep up with you.

5 SPECIAL AGENT COUGHLIN: I know you've heard from me
6 previously in Mr. Saleh's sentencing, so --

7 THE COURT: I did.

8 SPECIAL AGENT COUGHLIN: -- I'm not going to repeat
9 everything I said, Your Honor, at that time. But I would like
10 to cover a couple of key points that I think are important
11 today to bring out with regard to Mr. Mumuni's case and to
12 have an opportunity to address Mr. Mumuni specifically.

13 There was a couple of key decisions that led up to
14 the days leading up to the operation and to the search
15 warrant, and some decisions that were made that day that I
16 think had they not been made or somebody made a different
17 decision, then somebody or myself or someone else may have
18 been killed.

19 As you know, this was not an arrest warrant. This
20 was a search warrant. The first decision, I think, was made
21 is when the ASAC, the CT ASAC, of the squad that covered this
22 case had made a decision that he was going to ask for a couple
23 of SWAT operators to come assist the squad in clearing the
24 house before they went in to execute that search warrant.

25 That decision, I think, saved lives because had he

1 not done that, then the case agents from the squad would have
2 been the ones knocking on that door that day, and they would
3 have been the ones that were facing a six-foot, 250-pound
4 terrorist with a nine-inch knife, as opposed to six members of
5 the SWAT team who are better trained in handling and dealing
6 with subjects with deadly weapons. So had he not made that
7 call, who knows what could have happened.

8 Had my SWAT section leader not made that last-minute
9 decision to tell me to just bring my M-4, my long gun, at the
10 last minute, because I was going to be the first person in
11 that door, had he not made that last-minute decision, that
12 would have made a difference. And I say that because up until
13 that point we were just going to wear our soft vests and have
14 our pistols, because, like I said, it was a search warrant and
15 not something we were expecting.

16 So that decision caused me to decide to bring my
17 SWAT kit and wear my SWAT kit. And the significance of that
18 is the SWAT kit or the plate carriers are very different.
19 They have metal plates in the front and back. They have extra
20 layers of Kevlar. I had the old vest that had the extra
21 protection on the sides, which was overlapping Kevlar with a
22 hard layer of plastic that went from the back to the front.
23 So it was that extra protection that I think also made a
24 difference.

25 Had it not been for the quick response of my fellow

1 teammates that were behind me in their force of action when
2 Mr. Mumuni stabbed me, it could have had a different outcome.

3 So I also think it's important to point out that
4 when Mr. Mumuni came down those stairs that day, that he came
5 down those stairs with the intent of trying to kill one of us.
6 And I say that because it's not like he grabbed that knife
7 from the kitchen on his way down. He had that knife with him
8 in his room when he came out and he concealed it until the
9 last possible minute. He did not walk down those stairs
10 waiving that knife around, because if he had, we would have
11 shot him before he got to the bottom of the stairs.

12 He made it seem like he was compliant when I asked
13 him -- when I identified ourselves as FBI and I said we were
14 there for a search warrant and I asked him to sit down on the
15 couch. He came down the stairs, he made it seem he was
16 compliant as he walked across the room, and it wasn't until he
17 was halfway across the room that he then ran at me.

18 And at point he still hadn't shown us. Nobody had
19 seen a knife. It wasn't until he was an arm's length away
20 from me, when I had already let go of my M-4, because I felt
21 we were about to fight and going hands on and I was preparing
22 to take him down to the ground. So at that point when I
23 finally saw the knife, when he was arm's length away, coming
24 from around his back, I didn't have my hand on a weapon at
25 that point. And it was too late to try to grab my M-4 or go

1 to my pistol on my side. So my best chance was to try to go
2 to try control his arm, and that's when he stabbed me multiple
3 times in the vest.

4 And if it wasn't for the force and quick response of
5 the agents that were behind me as they pushed us into the
6 room, and we started to fight with him, who knows what would
7 have happened. And had it been case agents from the squad
8 instead of the SWAT team, who knows what could have happened.

9 And it's also important to point out that even when
10 we were fighting with him, he still didn't give up. Even
11 after we got the knife out of his hand, he still fought with
12 us.

13 And it was -- I remember holding one of his arms
14 down, and the other squad operator that had his M-4 hanging in
15 front of him, because we were fighting with him, so his hands
16 were on his weapon; and I remember seeing Mr. Mumuni's hand go
17 up and grab the handle of the M-4 or the trigger guard of the
18 M-4 that he had. At that point I said, He's going for your
19 gun, and the operator grabbed his gun and swung it behind his
20 back as we continued to fight with him.

21 And it wasn't until we got the one cuff on and he
22 still fought with us. And it wasn't until we got the second
23 handcuff on that he finally stopped. And it was like a switch
24 got turned off. He stopped moving. He looked up at us and
25 was he was like now what. Very matter of factually. No

1 emotion, nothing.

2 I think that people in today's day they think of,
3 you know, law enforcement, that we assume a certain amount of
4 risk when we go after criminals, that we assume the risk that
5 they may try and kill us. And that's not what we sign up for.
6 We don't sign up to be killed or stabbed. We sign up to
7 enforce the rule of law.

8 I've been in the FBI for over ten years, the SWAT
9 team for six, and this the first time this has happened to me.
10 I don't think Mr. Mumuni should get the benefit of the fact
11 that although he tried his hardest to try to kill me or kill
12 one of us, that he was unsuccessful.

13 To Mr. Mumuni himself, I took an oath to protect and
14 serve everyone in the United States, to include you and your
15 family. I think you showed a complete disregard for that and
16 a disregard for the core values that make our country great.
17 I've never met you. I've never wronged you. I've never did
18 anything to you. Yet you tried to kill me.

19 At the time of the incident, I had a two-year-old
20 daughter who would have grown up without a father. My wife,
21 who is sitting in the courtroom here today, she would have
22 been a widow and a single mom. I now have a one-year-old son
23 that would not have been born.

24 It's sad that the mindset you had and the mindset
25 that individuals have that think like this, they tear at the

1 fabric of our society. You attacked the foundation of law and
2 order that makes our country great, to try to spread the
3 terror and hatred that you had believed in.

4 This was not a battlefield. This was the city of
5 New York, and I was not your enemy. The irony is, is even
6 though you did what you did, I would gladly and happily defend
7 and protect your family, even though you gave no regard to me
8 and mine, because that's what we do, we protect people.

9 Thank you, Your Honor, I appreciate the opportunity
10 to make my statement here, and I hope it's helpful in
11 determining what an appropriate and just sentence is in this
12 case.

13 THE COURT: Thank you, Agent Coughlin.

14 SPECIAL AGENT COUGHLIN: Thank you.

15 THE COURT: Does the government wish to be heard?

16 MR. SOLOMON: Just very briefly, Your Honor.

17 We agree with the special agent that what you're
18 fundamentally sentencing here not is a failed attempt to kill
19 someone. And Mr. Mumuni acted with premeditation. He
20 secreted two knives, one in the car and one under his bed and
21 prepared to kill a member of law enforcement, if someone
22 showed up at his door either seeking his arrest or executing a
23 search warrant, and we think that merits exceptionally severe
24 punishment.

25 In terms of proportionality, something you

1 referenced in the sentencing of the codefendant Munther Omar
2 Saleh, I would like to point Your Honor to two cases that, I
3 think, are especially relevant.

4 The two cases are the Justin Sullivan case, out of
5 North Carolina, and also the David Wright case, out of the
6 District of Massachusetts.

7 Both those cases involved ISIS-directed threats
8 involving the same coconspirator in this case, Junaid Hussain.

9 In the case of David Wright, David Wright instructed
10 a codefendant -- I'm sorry, a coconspirator, to attack the
11 members -- the boys in blue. That person, Rahim, approached
12 law enforcement in Boston with a knife and was shot dead.

13 David Wright proceeded to trial with respect to his
14 conduct, was found guilty on all charges and was sentenced to
15 28 years. We think at a minimum David Wright's conduct is less
16 serious than the conduct in this case, where this defendant
17 came very close to killing a member of law enforcement.

18 Similarly, in the Western District of North
19 Carolina, the court sentenced Justin Sullivan, who was
20 preparing to conduct a large-scale attack on behalf of ISIS.
21 Specifically, he had acquired a rifle with 14 rounds and a
22 travel bag containing material to escape. In that case, the
23 court sentenced Justin Sullivan to life imprisonment.

24 In all these cases, the defendants who are absorbing
25 the poison that's spread by ISIS are very young. The

1 government doesn't dispute that, and it's something the
2 courts, like the Court in this case, have been struggling
3 with.

4 I think it's important for the purpose of
5 deterrence, both specific and general, to impose a harsh
6 sentence here so that youthful potential offenders know that
7 if they absorb this poisonous rhetoric and act upon it, they
8 will be dealt with very severely by the court.

9 That's it. Thank you, Your Honor.

10 THE COURT: Thank you, counsel.

11 Anything else from the defendant?

12 MR. RICCO: Yes, Your Honor.

13 It would have been good to know these cases before
14 we got here today. But I would ask -- I would just say the
15 following.

16 THE COURT: I think they were referenced in --

17 MR. RICCO: I think they were, Judge.

18 THE COURT: -- in the government's paperwork.

19 MR. RICCO: Yes.

20 Judge, the comparison from David Wright's case is
21 that Mumuni would have been the person who would have been
22 shot and killed. And Saleh -- hold on a second. And Saleh
23 would have been the person, like David Wright, who influenced
24 Junaid to go out and attack people with a knife. This is what
25 happened here, which is why we say we're thankful no one was

1 killed here. We are not asking the Court to sentence him for
2 an unsuccessful anything. We're asking the court to sentence
3 him in connection to what he pled guilty to, which is an
4 attempt.

5 And in that case, the person who sent the young
6 person out to his death didn't take any responsibility for it,
7 went to trial, and was sentenced to 28 years.

8 Justin Sullivan is a guy who had plans to kill
9 hundreds of people. He was an organizer and a leader. And in
10 that case, the sentencing judge found that those threats to
11 kill hundreds of people warranted a life sentence.

12 We don't -- we believe that this case is different
13 from those cases, certainly for the purposes of sentencing.
14 And I would ask the Court to look to the relationship between
15 the defendant and his codefendant in this case, how they
16 influenced each other, what ultimately happened, and that the
17 Court sort of stay within the confines of what is before this
18 Court, the sentencing submissions here, not those in another
19 case where we don't have those submissions, and sort of make
20 this comparison based upon bits and pieces of what folks want
21 to focus in on. We have everything here, Judge.

22 Your Honor has sentenced the codefendant in this
23 case, who was a leader, an organizer, and had direct contact
24 with people in ISIS to recruit young people, just like Fareed
25 Mumuni. That's not disputed. And I would ask the Court to

1 sentence him for his role and what he did in this case in all
2 respects, the Court consider all the factors, and impose a
3 sentence that is sufficient but not greater than necessary.

4 Thank you very much, Your Honor.

5 THE COURT: Thank you, Mr. Ricco.

6 Before I pronounce sentence in this case, I want to
7 talk a little bit about what the facts are here, since some of
8 it is disputed amongst the parties.

9 I have before me Mr. Mumuni, who is now 23 years
10 old, will be 24 in two months, who was 21 at the time he
11 committed the crimes charged here.

12 As counsel points out, you were a law-abiding young
13 man. You graduated from high school and you were attending
14 college. Then you met the codefendant, Mr. Saleh. You became
15 radicalized. You expressed interest in traveling to the
16 Islamic state to support ISIL. You researched flight routes
17 to get there. And you started saving money so that you could
18 buy a ticket to go do what you indicated you intended to do.

19 You talked to Saleh, your coconspirator, about
20 traveling to ISIL -- ISIS, to support ISIS, to go to the
21 Islamic state. And you also discussed with him if you failed
22 to make it abroad, and if you were stopped by law enforcement,
23 that you would attack law enforcement. And within those
24 discussions, you even discussed with him the fact that, if
25 need be, you were willing to die attacking law enforcement.

1 You met Saleh's friends. You knew most of them
2 supported ISIS also. You watched the ISIS propaganda videos
3 with him.

4 When you were arrested in this case, you told the
5 agents continuously that your only interest was in traveling
6 abroad, but if you failed to do so, you would attack law
7 enforcement.

8 The dispute between the parties as to the relevant
9 facts here are -- I guess there are a few disputes -- whether
10 or not Mr. Mumuni had intent, along with Mr. Saleh, to either
11 assist, help or build a bomb to be used in the United States
12 for an attack.

13 Having watched the video of your postarrest
14 statement and having read all the submissions from the
15 government, Mr. Ricco is correct, I don't have any evidence
16 before me that that was ever your intent or that you engaged
17 in any planning with Mr. Saleh to build a pressure cooker bomb
18 to attack the United States in any way.

19 You did, however, make it clear that if you couldn't
20 travel abroad to support ISIS, you would attack law
21 enforcement, and that's exactly what you did on the morning
22 that you were arrested.

23 Unlike your codefendant, Mr. Saleh, the government
24 has no evidence that you were surveilling or visiting
25 monuments. That you were conducting searches for bomb-making

1 material. What the government has presented to me are
2 statements from Mr. Saleh, which I know very well, having
3 sentenced him, and your postarrest statements, which I've
4 reviewed both the hard copy and the video.

5 And in those statements where the agents were
6 questioning you extensively, you kept saying to them, I wanted
7 to go abroad, I wanted to support ISIS. If I couldn't do
8 that, then my plan was to attack law enforcement.

9 And some of the statements that you made in response
10 to the agent's questions as to whether or not you had any
11 intent to use a bomb within the United States, I understood
12 the agent's concern about that, the need to know whether any
13 attacks were planned, and to prevent them. And you kept
14 insisting that there wasn't any attack that you knew about.
15 You never planned to do anything with a bomb, although at one
16 point you admitted that if Saleh had given you the pressure
17 cooker bomb, you would have used it against law enforcement,
18 if law enforcement approached you.

19 The agents tried to get you to explain. They
20 understood that you wanted to go abroad. But what's the
21 significance of the pressure cooker bomb? And you tried to
22 explain to them, as best as I can tell from watching the
23 video, that there wasn't anything that was set in stone, it
24 was something that Saleh mentioned to you, you knew and you
25 understood that you wanted to attack law enforcement if you

1 couldn't go abroad and if they attacked you.

2 Some of the statements you made, and I'm quoting
3 now, "Well, I knew you guys were following me 24/7. I was
4 frustrated, so I said if I don't get to go to Islamic state
5 and you guys try to stop me, I'm going to defend myself."
6 That's on page 12 of your statement.

7 On page 19 you said, "The thing was, I knew you guys
8 were like watching me. So I knew you guys were behind me or
9 whatever. My intention was always to go to the Islamic state,
10 no matter what. But I said, I know you guys were one day you
11 will bust in my door, like you did, and that's when I fought
12 back."

13 On page 20 you said, "I told you the same thing
14 again. I told you my intent was to make it to the Islamic
15 state. I know you guys would come after me. I didn't go
16 after you. That's how it was."

17 And the agents at one point said to you, "So only if
18 we came knocking at your door would you do something?" And
19 you said "Yeah," on page 28.

20 In fact, the agents asked you, "Well, did you
21 consider the attack to be in the name of the Islamic state?"
22 And you said, "No, it was done in self-defense mostly for
23 myself."

24 My understanding of what your intent was at that
25 point in time, on that day when you were arrested, that you

1 planned on defending yourself, even if it meant that you would
2 die. Did you intend to kill the agent? It's not clear to me
3 that you did. You had a knife, a kitchen knife.

4 How many inches was the blade, counsel?

5 MR. SOLOMON: I believe it was nine inches.

6 THE COURT: Was the blade nine inches or the knife?

7 MR. SOLOMON: I believe the blade was seven inches.

8 THE COURT: I believe I have a picture of it with a
9 ruler that you submitted to the Court, measuring the blade.

10 MR. SOLOMON: Your Honor, it's 200-millimeters.
11 We've been trying to convert that.

12 THE COURT: It's a kitchen knife, right, that
13 Mr. Mumuni went after armed agents with. Did Mr. Mumuni
14 really think he could do damage with that knife? I don't
15 know.

16 But I heard Agent Coughlin's testimony, and I
17 understand that he was threatened and that he believed under
18 the circumstances that, yes, you could have killed him. And
19 I'll credit his statement that that could have been the
20 outcome whether you intended it or not. Maybe your intent was
21 only that you would die, but you could have killed him.

22 For all of these actions, Mr. Mumuni pled guilty to
23 conspiracy to provide material support to a terrorist
24 organization, attempt to do the same, conspiracy to assault
25 law enforcement officers, attempting murder of federal

1 officers and assaulting federal officers.

2 And the government is asking me to sentence
3 Mr. Mumuni to what, Mr. Solomon? What is your recommended
4 sentence here?

5 MR. SOLOMON: Hold on a second, Your Honor.
6 Eighty-five years.

7 THE COURT: Unlike Mr. Saleh, your codefendant, you
8 were not the leader of any group. In fact, you were recruited
9 to participate in this group.

10 There is no evidence that you recruited anyone else
11 to follow ISIS. There's no evidence that you praised ISIS'
12 heinous actions, as your codefendant did, or that you
13 translated any ISIS propaganda for others, as Mr. Saleh did.

14 Unlike Mr. Saleh, when you were arrested, you gave a
15 full statement. You were interviewed for over an hour. You
16 told the agents what you knew. There's no question here that
17 your conduct is grave, reprehensible, and that it deserves
18 serious punishment. You attacked law enforcement. And as you
19 heard from Agent Coughlin, you could have killed him.

20 I do, however, have to consider all of the facts
21 before me, including your age, your lack of criminal history,
22 the letters from your family members and friends who describe
23 a very different Mumuni than the one who was arrested that
24 morning.

25 You've had no disciplinary infractions since you've

1 been incarcerated for almost three years. I have to balance
2 all of these factors in determining what is an appropriate
3 sentence here. I do believe that the sentence the government
4 is asking for is excessive. Sentencing you to 85 years for
5 what you did, to me, is not a reasonable sentence.

6 I believe under the circumstances that a variance is
7 warranted. And so I am sentencing you to 120 months on Counts
8 One and Two. That's the conspiracy and the attempt to provide
9 material support to a foreign terrorist organization. Both to
10 run concurrent with each other.

11 This is less of a sentence than I gave your
12 codefendant because of the difference in your situation. He
13 was the leader. He recruited others. He was involved in
14 planning and attack on the United States, in fact, visiting
15 monuments, and had looked up how to put together a pressure
16 cooker bomb. I have no evidence that you did any of those
17 things.

18 On Count Three and Count Six, conspiracy to assault
19 a federal officer and assault of a federal officer with a
20 deadly weapon, I'm sentencing you 60 months, to run
21 concurrently with each other, and with Counts One and Two.

22 The attempted murder of a federal officer, that is
23 the most serious, in my mind, of the crimes that you've
24 committed. And on that count, I'm sentencing you to 204
25 months in custody; 120 of them will run concurrent with all

1 other sentences, but you will serve an additional 84 months
2 for that crime. It will be consecutive to all of the
3 sentences.

4 I find that this sentence is sufficient. It is not
5 greater than necessary to comply with all of the purposes of
6 sentencing. I believe it sufficiently punishes you for the
7 crimes that you've committed, and that it does provide
8 specific and general deterrence.

9 I'm also sentencing you to a supervised release
10 term. On Counts One, Two and Five, ten years. On Counts
11 Three and Six, three years. All supervised release terms will
12 run concurrently.

13 I'm also imposing several special conditions. For a
14 period of six months, you shall comply with a curfew by
15 electronic monitoring, as directed by the Probation
16 Department. You will remain at your place of residence from
17 7 p.m. to 7 a.m. The Probation Department may designate
18 another 12-hour respective time period, if your employment,
19 education or observance of religious services preclude the
20 specific times that I've indicated.

21 The curfew by electronic monitoring shall commence
22 on the date approved by the Probation Department. During the
23 curfew period, you shall wear an electronic monitoring
24 bracelet or a similar tracking device and follow all
25 requirements and procedures established for the curfew via

1 electronic monitoring by the Probation Department.

2 Mr. Ricco, these conditions are all set forth in the
3 recommended sentence from the Probation Department, if your
4 client would like to follow along.

5 In addition, Mr. Mumuni, you shall pay all costs,
6 including the price of the electronic monitoring equipment, to
7 the degree that you're reasonably able to do so.

8 You shall disclose all financial information and
9 documents to the Probation Department to assess your ability
10 to pay.

11 You shall not associate in person, through mail,
12 through electronic mail, internet, social networking, or a
13 telephone with any individual with an affiliation to any
14 organized crime groups, gangs, or any criminal enterprise, nor
15 shall you frequent any establishment or location where these
16 groups may meet, pursuant but not limited to a prohibition
17 list provided by the Probation Department.

18 You shall cooperate with the Probation Department's
19 computer and internet monitoring program. Cooperation shall
20 include, but not be limited to, identifying computer systems,
21 internal-capable devices, similar electronic devices that you
22 have access to, and allowing the installation of monitoring
23 software, hardware, on those devices at your expense.

24 You may be limited to possessing only one personal
25 David Wright case, out of the District of Massachusetts.

1 Internet-capable device in order to facilitate the
2 department's ability to effectively monitor your
3 internet-related activities.

4 You shall permit random examinations of said
5 computer systems, and all similar devices, including CDs that
6 are under your control.

7 You shall also submit your person, property, house,
8 residence, vehicle, papers, computers, other electronic
9 communications or data storage devices, or media, or office to
10 a search conducted by the United States Probation officer.
11 Failure to submit to a search may be grounds for revocation of
12 your release.

13 You shall warn any other occupants that the premises
14 may be subject to searches pursuant to this condition. An
15 officer may conduct a search pursuant to this condition only
16 when reasonable suspicion exists that you have violated the
17 condition of your supervision, and that the areas to be
18 searched contain evidence of this violation.

19 Any search must be conducted at a reasonable time
20 and in a reasonable manner.

21 And, obviously, you cannot possess a firearm,
22 ammunition, or any such device.

23 I do not impose a fine. I find that you are not
24 capable of paying a fine.

25 I am imposing a \$500 special assessment, which must

1 be paid.

2 Mr. Mumuni, you can appeal your conviction. You can
3 also appeal your sentence. Any notice of appeal must be filed
4 within 14 days of the filing of the entry of a judgment, or
5 within 14 days of the filing of a notice of appeal by the
6 government.

7 If requested, the clerk will prepare and file a
8 notice of appeal on your behalf. If you cannot afford to pay
9 the cost of an appeal or for appellate counsel, you have the
10 right to apply to have the fee waived, and on appeal you can
11 request appointed counsel.

12 Are there any other matters to be resolved?

13 MR. SOLOMON: No, Your Honor.

14 MR. RICCO: No, Your Honor. Thank you.

15 THE COURT: Mr. Mumuni, I do wish you the best of
16 luck. I hope that while you're incarcerated, you will take
17 advantage of all the materials provided to you, including
18 finishing your education, so that when you're released, you
19 can, in fact, become a contributing member to society.

20 We're adjourned.

21 (Whereupon, the matter was concluded.)

22 I certify that the foregoing is a correct transcript from the
23 record of proceedings in the above-entitled matter.

24 s/ Linda D. Danelczyk

April 30, 2018

25 LINDA D. DANELCZYK

DATE